

1           A.    No. My knowledge of the programs is based  
2 on the summaries and I assumed, of course, that  
3 people did their very best job to summarize the  
4 contents of a program in a brief paragraph.

5           Q.    Would you look at Page 2 of the exhibit?

6           A.    Yes, I have it.

7           Q.    The program on April 23, 1990.

8           A.    Yes.

9           Q.    And my question is this, if this television  
10 station chose the broad topic of pollution or  
11 pollution and environment as a broad topic to which  
12 it will address some programs, that the program  
13 described there as having been broadcast on April 23,  
14 1990 was an address to that broad topic?

15          A.    It addressed the topic fairly narrowly.  
16 Again, the obvious lack is any participation of  
17 citizen interest or public environmental groups as  
18 opposed to industry and bureaucrat.

19          Q.    Do you know Mr. Joe Harden described here  
20 as enforcement administrator of the Environmental  
21 Quality Control Board?

22          A.    No, I do don't.

23          Q.    Do you know Deborah Silver described here  
24 as Department of Solid Waste Management, Special  
25 Projects Administrator?

1 A. No, I don't.

2 Q. And do you know this Mike Cordesman who  
3 appears to be a business person in the area of waste  
4 management, do you know him?

5 A. No, I don't.

6 Q. Would you look at the next program on the  
7 same page, broadcast on April 30, 1990, would you  
8 agree that the topic being described there or  
9 referred to there is a topic addressed to an issue of  
10 importance in the area of environment or pollution?

11 A. Solid waste management is certainly an area  
12 of great importance.

13 Q. Would you look at Page 4 of the exhibit,  
14 the program listed as having been broadcast on  
15 February 15. Let me ask you first, do you know Jeff  
16 Ryan who is described here as executive director of  
17 the Broward County Legislative Delegation?

18 A. No. I don't know the Broward County  
19 legislative director.

20 Q. Do you know Cathy Anclade described here as  
21 director of communications, South Florida Water  
22 Management District?

23 A. I have met the current director of  
24 communications. Whether or not I have met Cathy  
25 Anclade, I cannot recall, but I do - I do participate

1 in events with the South Florida Water Management  
2 director where the director of communications has  
3 been present.

4 Q. What is the South Florida Water Management  
5 District?

6 A. South Florida Water Management District is  
7 the body established within the State of Florida  
8 which manages, may I dare say, the plumbing of the  
9 natural water flow that flows throughout South  
10 Florida to the ocean and has now been primarily  
11 placed in canals.

12 Q. Its jurisdiction extends to Dade County as  
13 well as to Broward?

14 A. Yes, and north of Broward. It begins north  
15 of Lake Okeechobee.

16 Q. And I don't have to spell Okeechobee.

17 You agree, Dr. Brown, that the program  
18 described there that I have just been asking you  
19 about on February 15, 1990 appears, from what you can  
20 read about it, to be a worthwhile program directed to  
21 an issue of importance in the areas of pollution or  
22 environment?

23 A. Obviously water is certainly probably the  
24 most critical issue to South Florida and again, it's  
25 typical, they look at it with a very - strictly a

1 governmental view and with the strongest point being  
2 a bureaucratic viewpoint, and I say this with all due  
3 respect to government employees and bureaucrats,  
4 being one myself.

5 Q. And would you look at the program described  
6 as having been broadcast on September 9, 1988. We're  
7 told that it relates to the drought and the  
8 Greenhouse Effect?

9 A. Okay.

10 Q. Greenhouse Effect was more of a fashionable  
11 term in 1988 than it is today, is that correct?

12 A. The concern for global climate change, I  
13 would say, probably certainly is valid and greater  
14 today than it was then.

15 Q. Do you know Dr. John Parker described here  
16 as Director of Environmental Studies at Florida  
17 International University?

18 A. Not personally.

19 Q. Where is Florida International University  
20 located?

21 A. It's in Dade County.

22 Q. Do you know Leo Mayer, Deputy Assistant  
23 Secretary of Economics for the Department of  
24 Agriculture?

25 A. No. I don't even know him by reputation.

1 Q. Beg your pardon?

2 A. I don't know him even by reputation. I'm  
3 aware of the work at FIU.

4 Q. Mr. Mayer does appear to be in the category  
5 or person you described as a bureaucrat, does he not?

6 A. Yes.

7 Q. That's not true apparently of Dr. John  
8 Parker, is it?

9 A. No, that's not true.

10 Q. Do you know anything of Dr. Parker in terms  
11 of reputation?

12 A. Dr. Parker is a legitimate scientist. He's  
13 not representing a particular government point of  
14 view, that's correct.

15 Q. Do you know anything about the status or  
16 reputation of the Department of Environmental Studies  
17 at Florida International University?

18 A. It has a reasonable reputation.

19 Q. When you said FIU a moment ago, you were  
20 referring to Florida International University?

21 A. That's correct.

22 MR. MULLIN: I have no further questions.

23 Mr. Honig.

24 MR. HONIG: I have no questions for the  
25 witness.

1 (Whereupon, the deposition was concluded at  
2 or about 10:55 a.m.)  
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AND FURTHER DEPONENT SAITH NOT

BRADFORD BROWN

SWORN TO AND SUBSCRIBED TO before me on this  
day of , 1993, in the City of  
Fort Lauderdale, Broward County, Florida.

Notary Public - State of Florida

CERTIFICATE OF OATH

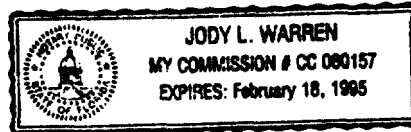
STATE OF FLORIDA )  
COUNTY OF BROWARD )

I, the undersigned authority, certify that  
BRADFORD BROWN personally appeared before me and  
was duly sworn.

WITNESS my hand and official seal this  
11th day of OCTober, 1993.

  
JODY L. WARREN

Notary Public - State of Florida  
My Commission Expires: 2/18/95





CERTIFICATE

STATE OF FLORIDA:

SS.

COUNTY OF BROWARD:

I, JODY L. WARREN, being a Shorthand Reporter and a Notary Public for the State of Florida at Large, do hereby certify that I was authorized to and did stenographically report the foregoing deposition; and that said transcript is a true record of the testimony given by the witness.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

Dated this 11th day of October, 1993.

  
JODY L. WARREN

STATE OF FLORIDA )  
COUNTY OF BROWARD )

The foregoing certificate was acknowledged before me this 11th day of October, 1993, by Jody L. Warren, who is personally known to me.

  
Notary Public - State of Florida

OFFICIAL NOTARY SEAL  
CAROL BROMWELL  
NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION NO. CC176532  
MY COMMISSION EXPIRES FEB. 14, 1996

SALAD #2

Salad Ex.2., p.1

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In Re: Applications of

MM Docket No. 93-75

TRINITY BROADCASTING OF FLORIDA,  
INC.

BRCT-911001LY

For Renewal of License for  
Television Station WHFT (TV)  
Miami, Florida

GLENDALE BROADCASTING COMPANY  
-----

BPCT-911227KE

633 South Federal Highway  
Fort Lauderdale, Florida  
September 13, 1993  
Monday, 10:00 a.m.

DEPOSITION OF ANDREW CHERRY, JR.

Taken before Jody L. Warren, Shorthand  
Reporter, Notary Public for the State of Florida at  
Large, pursuant to Notice of Taking Deposition filed  
in the above cause.

COPY

Federal Communications Commission

Docket No. 93-75 Exhibit No. 2

Presented by Honig

Disposition	{	Identified	<u>DEC 3-1993</u>
		Received	<u>DEC 3-1993</u>
		Rejected	

Reporter A. Wilson

Date DEC 3-1993

## 1 APPEARANCES:

2  
3 MULLIN, RHYNE, EMMONS & TOPEL  
4 By: EUGENE F. MULLIN, ESQUIRE  
on behalf of Trinity.

5 RONDA R. ROBINSON, ESQUIRE  
6 on behalf of SALAD.  
7

---

8  
9  
10 I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>
12 ANDREW CHERRY, JR.	3 45	4

13  
14  
15  
16 EXHIBITS

17 SALAD Exhibit 1	4
Trinity Exhibits 1 - 5	5

1 Thereupon:

2 ANDREW CHERRY, JR.

3 was called as a witness and, having been first  
4 duly sworn, was examined and testified as follows:

5 MR. MULLIN: Would you state your name for  
6 the record, sir?

7 THE WITNESS: Andrew L. Cherry, Junior.

8 MR. MULLIN: Dr. Cherry, I'm Eugene F.  
9 Mullin and I'm an attorney for the licensee of  
10 Channel 45.

11 This is a deposition, as you know, being  
12 conducted in a proceeding before the Federal  
13 Communications Commission.

14 Miss Robinson, did you want to enter your  
15 appearance?

16 DIRECT EXAMINATION

17 BY MS. ROBINSON:

18 Q. My name is Ronda Robinson, counsel for  
19 SALAD. You've already stated your name.

20 Could you state your address as well?

21 A. 11700 Northeast 9th Avenue, Biscayne Park,  
22 Florida, 33161.

23 Q. Mr. Cherry, I would like to present to you  
24 a document. Could you identify this document,  
25 please?

1 A. That's my curriculum vitae.

2 Q. Otherwise known as your --

3 A. My vitae. It's my curriculum vitae it's  
4 called.

5 MS. ROBINSON: I would like to have this  
6 marked as Deposition Exhibit Number 1 for SALAD.

7 (Thereupon, the above-referred to document  
8 was marked as SALAD Exhibit 1 for identification  
9 by the court reporter.)

10 MS. ROBINSON: The witness is available for  
11 cross.

12 MR. MULLIN: Beg your pardon?

13 MS. ROBINSON: The witness is available for  
14 cross.

15 CROSS EXAMINATION

16 BY MR. MULLIN:

17 Q. I'm wondering now how to identify these  
18 documents. This is SALAD Number 1. I think I'll  
19 start another sequence, if you have no objection, and  
20 I will call - ask that this be identified as Trinity  
21 Number 1, and that the subpoena attached to which is  
22 a copy of Dr. Cherry's Declaration be identified as  
23 Trinity Number 2, and I'm going to ask that <sup>there</sup> ~~they~~ be  
24 marked for identification as Trinity Number 3, a  
25 document captioned Illustrative Programming of

1 Channel 45 which the station claims to be responsive  
2 to the issue of AIDS 1987 - 1991.

3 This document is exactly as I received it  
4 from Mr. Honig, that's H-o-n-i-g, except I have put  
5 in the lower right-hand corner in pencil a page  
6 number for convenience of reference.

7 Could I have this marked as Trinity Number  
8 4, a document captioned on the first page  
9 Illustrative Programming, et cetera, Economy/Cost of  
10 Living/Inflation/Poverty/Unemployment, 1987 - '91.  
11 It is as I received it from Mr. Honig except that I  
12 have put in page numbers beginning with Page Number 1  
13 on the front cover. Those could be marked.

14 Could I also have marked for identification  
15 as Trinity Number 5 a document on the letterhead of  
16 David E. Honig, July, 1993, Memorandum to Colleagues  
17 and Friends. It is a three page letter attached to  
18 which is a one page questionnaire with eight  
19 questions on it.

20 (Whereupon, the above referred to documents  
21 were marked as Trinity Exhibits 1 through 5,  
22 respectively, for identification by the  
23 court reporter.)

24 Q. (By Mr. Mullin) Dr. Cherry, showing you  
25 Exhibit Number 1, a notice of deposition addressed to



1 Dr. Andrew Cherry, would you tell me, sir, have you  
2 received that prior to this moment?

3 A. It looks like it, uh-huh.

4 Q. Sir?

5 A. It looks like it, yes.

6 Q. And from whom did you receive that?

7 A. I believe it was David Honig.

8 Q. From Mr. Honig.

9 I also show you Exhibit Number 2, a  
10 subpoena duces tecum attached to which is a  
11 Declaration and I ask you if you received that?

12 A. Even with the typo.

13 Q. And the typo to which you refer -- Could he  
14 look at your copy, Counsel?

15 MS. ROBINSON: Sure.

16 Q. -- is where?

17 A. It's on the page of the Declaration - on  
18 Page 2 of the Declaration should be l-o-w and behold  
19 instead of l-o.

20 Q. Where is that, sir?

21 A. On the page that begins with the sentence  
22 although I have been.

23 Q. Yes.

24 A. If you go halfway down the page --

25 Q. Yes.

1           A.    -- you'll see in the middle of the sentence  
2 the line starts with severe depression period. It  
3 should be l-o-w, shouldn't it?

4           MS. ROBINSON: It's correct.

5           THE WITNESS: The way you said it?

6           MS. ROBINSON: Yes.

7           Q.    (By Mr. Mullin) Did you receive that from  
8 Mr. Honig also?

9           A.    Yes.

10          Q.    The entire document, Number 2, the subpoena  
11 itself, did you receive the subpoena from Mr. Honig?

12          A.    I believe I did, yeah.

13          Q.    Now --

14          A.    I'm almost sure I did.

15          Q.    Would you look at the second page, actually  
16 the third page headed Exhibit A and I would ask you  
17 to look at paragraphs one, two and three which  
18 specifies certain documents.

19                My question is going to be, do you have any  
20 documents other than those already identified that  
21 meet these descriptions?

22          A.    I don't have any documents with me. I  
23 don't have any other than what you've seen, meaning  
24 the Declaration.

25                I do have a letter somewhere in my files

1 where they sent me asking me to be on the program and  
2 a letter telling me about the program, but I have no  
3 idea where that is in my files.

4 Q. Have you looked for that letter?

5 A. I have a garage full of -- It was about  
6 three, four years ago and I'm on a lot of different  
7 committees, programs and such and it would be of  
8 great difficulty for me to find it.

9 Q. Would that be a letter written by the  
10 station to you in 1989?

11 A. It could be. I'm not sure what year, but  
12 it could be. It was the year I was on.

13 Q. Your recollection is there was a letter  
14 from the station to you asking you to be on the  
15 program?

16 A. Verifying I had agreed to be on the  
17 program, right.

18 Q. Did that letter contain a description of  
19 what the program would be about?

20 A. Right.

21 Q. Did you respond in writing?

22 A. No. It was verified by telephone call,  
23 telephone confirmation.

24 Q. Any other documents that meet the  
25 description of paragraphs one, two or three that you

1 have?

2 A. Not -- Just some stuff about Channel 45  
3 that they gave me when I was there, publicity stuff.

4 Q. That the people at Channel 45 gave you?

5 A. Right.

6 Q. Could you tell us how it came about that  
7 you happened to prepare and sign the Declaration?  
8 I'm going to use the copy of the Declaration attached  
9 to the subpoena, just tell me who contacted you and  
10 the process by which this document was created.

11 A. I can't remember. I've got a note here on  
12 that. I keep little notes on the contact, I think.  
13 Just let me find it. I can't remember the guy's name  
14 that called me right offhand.

15 Q. Would it have been Tyrone Shanks?

16 A. There you go, Tyrone called me, I think his  
17 name was. I can't even remember when he called me.  
18 He called me to ask me if I knew anything about the  
19 radio station and I told him I had experience on that  
20 radio station.

21 Q. Would you look at Trinity Exhibit 5? Did  
22 you receive that document from Mr. Honig?

23 A. I'm pretty sure I did. I remember the last  
24 page particularly.

25 Q. You remember the last page, that is the

1 questionnaire?

2 A. Right, right. That's what I paid attention  
3 to. I think I have gotten that.

4 Q. Is it your best recollection that you did  
5 receive the document that's now Trinity Number 5?

6 A. Yes.

7 Q. Would it be correct to say that you  
8 received it after your telephone conversation with  
9 Mr. Shanks?

10 A. Yes.

11 Q. How many telephone conversations with  
12 Mr. Shanks did you have?

13 A. In reference to this?

14 Q. Well, in reference to anything.

15 A. Well, we had one conversation about my  
16 knowledge of the channel and then we had two or three  
17 conversations about why I couldn't get anything in  
18 the mail from them.

19 We had trouble with the mail and so he had  
20 called and said did I get it and I would say no, I  
21 didn't, so, you know, that kind of thing went back  
22 and forth until I finally got something like this.

23 Q. Now, in the first conversation with  
24 Mr. Shanks, did he tell you how he got your name?

25 A. I imagine -- No, he did not.

1 Q. Did he identify himself as an attorney or a  
2 person working for an attorney on behalf of the  
3 corporation known as SALAD?

4 A. Yes.

5 Q. At that time, had you heard of SALAD?

6 A. Yes.

7 Q. Are you a member of SALAD?

8 A. No, I am not.

9 Q. What was your information or understanding  
10 about SALAD when you heard Mr. Shanks mention the  
11 name?

12 A. Well, it's been around Miami for a good  
13 bit. It's an organization that tries to deal with  
14 some of the discrimination against Hispanics that  
15 tends to crop up in our social situation often.

16 Q. Now, what did Mr. Shanks tell you he wanted  
17 from you or was going to ask you to do?

18 A. He said that -- Best I can recall, that  
19 Channel 45 was up for licensure review, if I'm not  
20 mistaken, something like that, something to that  
21 effect, and that SALAD was going to protest or, you  
22 know, I'm paraphrasing now because I can't remember  
23 exactly, because when he first talked to me I didn't  
24 realize we were going to get into all this. I was  
25 just responding to the question did I know anything

1 about 45 and he said that there was some areas that  
2 SALAD was not considering that they had been involved  
3 in providing public service in some of their  
4 programming.

5 So, you know, when he said that, I said,  
6 well, that was my opinion as well because of my  
7 experience in watching their public service  
8 programming, which is about the only ones I've ever  
9 watched on their programming, on their TV station.

10 Q. Did he tell you how he got your name?

11 A. No, he did not.

12 Q. Have you talked to anyone other than  
13 Mr. Shanks, Mr. Honig and Miss Robinson concerning  
14 your testimony on behalf of SALAD in this case?

15 A. I never talked to Miss Robinson.

16 Q. You never talked to Miss Robinson?

17 A. No.

18 Q. Anyone other than Mr. Shanks and Mr. Honig?

19 A. No.

20 Q. Did Mr. Shanks ask you whether you were a  
21 frequent viewer of Channel 45?

22 A. I don't know if he used the term frequent,  
23 he may have. My impression was that he asked me did  
24 I have an informed opinion about Channel 45  
25 programming and from that perception, I answered yes.

1 Q. Did he ask you when was the most recent  
2 occasion when you would watch Channel 45?

3 A. No, he did not.

4 Q. Mr. Shanks called you sometime in July of  
5 this year, June or July?

6 A. Yeah, I'm sure.

7 Q. As of that time, when was the most recent  
8 occasion in which you had watched Channel 45?

9 A. Probably about -- Probably not in the last  
10 two or three months and then very occasionally since  
11 the hurricane.

12 Q. Very occasionally --

13 A. Since the hurricane because my antenna got  
14 knocked down, so you only pick it up -- you have to  
15 use an antenna or rabbit ears or something to pick it  
16 up because it's not on cable. So, I don't get it as  
17 well with rabbit ears as I did with my antenna, so I  
18 don't see it as much.

19 Q. Let's go back to the calendar year 1991.  
20 During that year how much viewing did you do of  
21 Channel 45?

22 A. I would watch it for -- Well, I watched  
23 public programming in relationship to several issues  
24 that I was doing studies on in the community. One  
25 was homeless and one was AIDS and so I watched



1 Channel 45 and all other programming that was  
2 available to the community.

3 I was doing a study on AIDS prevention  
4 education and also doing one on homeless in South  
5 Florida. So, I was - I kept myself abreast of the  
6 public programming in relationship to those two as  
7 well as others, but particularly on those two.

8 Q. And that was true in 1991?

9 A. That's been true since probably '88.

10 Q. Would you look at the document that's been  
11 identified as Trinity Exhibit 4, I'm just going to  
12 refer to it that way.

13 A. Okay.

14 Q. Did you receive that from Mr. Shanks or  
15 Mr. Honig?

16 A. I believe I did because I was looking for  
17 my name in here.

18 Q. Were you able to find your name?

19 A. No, I wasn't. I couldn't believe it.

20 Q. Would you look at --

21 A. I may have missed it though.

22 Q. Would you look at Page 21 and tell me if  
23 you find your name there.

24 A. Don't tell me I missed it. I do see my  
25 name, yeah.